



U.S. Department of Justice

*United States Attorney
District of New Jersey*

970 Broad Street, Suite 700
Newark, New Jersey 07102
(973) 645-2732
andrew.caffrey@usdoj.gov

July 28, 2020

Clerk
Martin Luther King Building
& U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: United States *ex rel.* [UNDER SEAL] v. [UNDER SEAL]
Civil Action No. 14-7021 (CCC)

FILED IN CAMERA AND UNDER SEAL

Dear Sir or Madam:

I enclose for filing *in camera* and under seal in the above-referenced case three copies each of the following documents:

1. The United States' Notice of Election to Intervene in Part for Settlement Purposes; and
2. Certificate of Service.

Kindly return a copy of each document stamped "filed" in the envelope provided.

Sincerely,

RACHAEL A. HONIG
Attorney for the United States
Acting Under Authority Conferred
By 28 U.S.C. § 515

By: _____


ANDREW A. CAFFREY, III
Assistant U.S. Attorney

Enclosures

cc: Hon. Claire C. Cecchi, U.S.D.J. (w/ enclosures)
Brian McCormick (w/ enclosures)
Alice Fisher (w/ enclosures)
Christopher Porrino (w/ enclosures)

RACHAEL A. HONIG
Attorney for the United States
Acting Under Authority Conferred
By 28 U.S.C. § 515
ANDREW A. CAFFREY, III
Assistant U.S. Attorney
970 Broad Street, Suite 700
Newark, NJ 07102
Tel. (973) 645-2732
email: andrew.caffrey@usdoj.gov

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA, *ex rel.*
JORDAN C. SCHNEIDER,

Plaintiffs,

v.

PACIRA PHARMACEUTICALS, INC.,

Defendant.

Hon. Claire C. Cecchi

Civil Action No. 14-7021 (CCC)

**UNITED STATES' NOTICE OF
ELECTION TO INTERVENE IN PART
FOR SETTLEMENT PURPOSES**

FILED IN CAMERA AND UNDER SEAL

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States notifies the Court of its decision to intervene in part of this action for settlement purposes.

Specifically, the United States intervenes in this action with respect to civil claims predicated upon the following factual allegations (the "Covered Conduct"):

The United States contends that it has certain civil claims against Pacira arising from Pacira offering and/or paying illegal remuneration to health care providers, which remuneration Pacira intended, in whole or in part, to induce purchases of EXPAREL in violation of the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b), as described more specifically in this paragraph. Specifically, the United States contends that, during the period from December 1, 2012, through April 30, 2015, Pacira paid kickbacks in the form of 28 grants (collectively, the "Grants," and each individually, a "Grant") to certain health care providers and/or institutions, through which Pacira intended to spur sales of EXPAREL. Pacira has provided a list of the Grants that are the subject of the United States' contentions, which list also includes the names of the customers associated with each Grant and relevant volume of EXPAREL sales. The United States contends that

Pacira sales representatives or marketing executives typically initiated the Grants, which were conditioned upon acceptance of EXPAREL onto the institution's formulary. The United States contends that certain Pacira executives coached Grant recipients and other employees on how to avoid internal scrutiny of the Grant payments. The United States contends that Pacira approved and funded the Grants despite receiving little or no documented description of the proposed research, and Pacira also did not document a reasonable commercial need or a fair market value assessment for the Grants. The United States contends further that after awarding the Grants, Pacira personnel conducted little or no follow-up on the proposed research, which certain Grant recipients did not carry out according to the original proposal, and sometimes did not perform at all. The United States contends that the Grant payments caused sales of EXPAREL at the recipient institutions to increase during the time period of December 1, 2012, through April 30, 2015.

The United States declines intervention with respect to all other claims alleged against the Defendant apart from those based upon the Covered Conduct.

Under the terms and conditions of a settlement agreement among the United States, the relator, the Defendant, the parties to that settlement agreement will file a Joint Stipulation of Dismissal with respect to all claims against the Defendant following the payment of the settlement amount.

Dated: July 28, 2020
Newark, New Jersey

Respectfully submitted,

RACHAEL A. HONIG
Attorney for the United States
Acting Under Authority Conferred
By 28 U.S.C. § 515



By:

ANDREW A. CAFFREY, III
Assistant U.S. Attorney

RACHAEL A. HONIG
Attorney for the United States
Acting Under Authority Conferred
By 28 U.S.C. § 515
ANDREW A. CAFFREY, III
Assistant U.S. Attorney
970 Broad Street, Suite 700
Newark, NJ 07102
Tel. (973) 645-2732
email: andrew.caffrey@usdoj.gov

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA, *ex rel.*
JORDAN C. SCHNEIDER,

Plaintiffs,

v.

PACIRA PHARMACEUTICALS, INC.,

Defendant.

Hon. Claire C. Cecchi

Civil Action No. 14-7021 (CCC)

CERTIFICATE OF SERVICE

FILED IN CAMERA AND UNDER SEAL

I, Andrew A. Caffrey, III, hereby certify that on July 28, 2020, I caused copies of the United States' Notice of Election to Intervene in Part for Purposes of Settlement, to be sent via email and first-class mail, postage prepaid, to:

Brian McCormick
Ross Feller Casey
One Liberty Place
1650 Market St., 34th Floor
Philadelphia, PA 19103

Counsel for Relator

Alice Fisher
Ben Naftalis
Latham & Watkins, LLP
885 Third Avenue

New York, NY 10022-4834

Christopher Porrino
Scott McBride
Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, New Jersey 07068

Counsel for Defendant

I swear that the foregoing statements are true and correct to the best of my ability and knowledge. I am aware that I am subject to penalty for any willful misstatement herein.

Dated: July 28, 2020
Newark, New Jersey

A handwritten signature in black ink, appearing to read "A. Caffrey, III", written over a horizontal line.

Andrew A. Caffrey, III
Assistant U.S. Attorney